

Interpreter Releases Report and analysis of immigration and nationality law  
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**\*3328** 15. USCIS Automatically Extends EADs for Salvadoran TPS Beneficiaries

On October 1, 2008, U.S. Citizenship and Immigration Services (USCIS) published notice in the Federal Register that the temporary protected status (TPS) designation of El Salvador was being extended through September 9, 2010. [FN117] Beneficiaries of TPS for El Salvador are required to re-register by December 30, 2008, and obtain new employment authorization documents (EADs). Since USCIS will not be able to process and re-issue new EADs for all such beneficiaries by the March 9, 2009, expiration date, USCIS has decided to automatically extend the validity of EADs issued to Salvadoran nationals (or aliens having no nationality who last habitually resided in El Salvador) until September 9, 2009. Notice announcing this extension and explaining how TPS beneficiaries and their employers may determine which EADs are automatically extended is published in 73 Fed. Reg. 76039 (Dec. 15, 2008). The notice, which was effective upon publication, is reproduced in Appendix IX of this Release. The automatic extension of EADs will begin on March 10, 2009, and will remain in effect until September 9, 2009.

Salvadoran nationals (and people having no nationality who last habitually resided in El Salvador) are eligible to receive the automatic six-month extension of their EADs if they applied for and received an EAD under the Salvadoran TPS designation and have not had TPS withdrawn or denied. This automatic extension is limited to EADs issued on Form I-766, Employment Authorization Document, bearing an expiration date of March 9, 2009. These EADs must also bear the notation "A-12" or "C-19" on the face of the card under "Category." New EADs or extension stickers showing the September 9, 2009 expiration date of the six-month automatic extension will not be issued, and employers should not ask for additional Form I-9 documentation if presented with an EAD that has been automatically extended and the EAD reasonably appears on its face to be genuine and to relate to the employee nor should an employer ask for proof of Salvadoran citizenship. USCIS advises that, to avoid confusion at the time of hire or re-verification, qualified individuals may present a copy of the applicable Federal Register notice regarding the automatic extension of EADs through September 9, 2009. After September 9, 2009, a qualified individual may present a new EAD valid through September 9, 2010. Alternatively, any legally acceptable document or combination of documents as listed on the Form I-9 may be presented as proof of identity and employment eligibility.

The Federal Register notice advises employers that, after the automatic six-month extension expires on September 9, 2009, eligible TPS aliens will possess Form I-766s that will show an expiration date of September 9, 2010, and will have the notion "A-12" or "C-19" on the face of the card under "Category." Employers are further advised that they should accept these EADs for purposes of verifying identity and employment authorization.

TPS beneficiaries must submit the Application for Temporary Protected Status, Form I-821, without the application fee and the Application for Employment Authorization, Form I-765, in order to re-register for TPS. A separate biometric service fee or a fee-waiver request must be submitted by re-registrants 14 years of age and

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older. If the applicant is only seeking to re-register for TPS and is not seeking an extension of employment authorization, he or she must submit Form I-765 for data-gathering purposes only and is not required to submit the I-765 filing fee. All applicants seeking an extension of employment authorization through September 9, 2010, must submit the required application filing fee with Form I-765 or a fee waiver request with proper documentation. Failure to submit the required filing fees or a properly documented fee waiver request will result in the rejection of the re-registration application.

Note that TPS does not apply to Salvadoran nationals who entered the U.S. after February 13, 2001.

[FN117]. 73 Fed. Reg. 57128 (Oct. 1, 2008), discussed and reproduced in 85 Interpreter Releases 2636, 2683 (Oct. 6, 2008).

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